



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

APPEAL DECISION SUMMARY

APPEAL No: 2010-2931

DATE: January 13, 2011

OUTCOME: (check one)

☐ SUSTAINED ☐ REVERSED ☒ REMANDED
☐ INVALID/FULL
☐ SUSTAINED and REMANDED
☐ REVERSED and REMANDED
☐ AGENCY ERROR/OTHER

ISSUE ON APPEAL: Eligibility –ABD –excess resources

GENERAL RULE OF LAW: Standards for resource eligibility

1. United States Code, 42 U.S.C. § 1396a(a)(17)(B) requires a state plan for medical assistance to include:

 reasonable standards . . . for determining eligibility for and the extent of medical assistance under the plan which . . . (B) provide for taking into account only such income and resources as are . . . available to the applicant or recipient.
2. The State plan must specify that . . . in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive allowable income and resource methodologies. If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify the less restrictive methodologies that will be used, and the eligibility groups to which the less restrictive methodologies will be applied. Code of Federal Regulations, 42 CFR §435.601, (f).
3. As a program based on need, Medicaid uses the value of a person's countable resources as one of two financial criteria in determining eligibility. The other criterion is income. Medicaid Manual, Volume XIII, M1110.001, A (p. 1).
4. Eligibility with respect to resources is a determination made for each calendar month, beginning with the third month prior to the month in which the application is received. Resource eligibility exists for the full month if countable resources were at or below the applicable resource limit for any part of the month. M1110.001, B, 1 (p. 1).
5. Resources are cash and any other personal or real property that an individual owns, or has the power to convert to cash and is not legally restricted from using for his support and maintenance. Medicaid Manual, Volume XIII, S1110.100, B, 1, (p. 3).

6. Liquid resources are any resources in the form of cash or in any other form which can be converted to cash within 20 workdays. Absent evidence to the contrary, we assume that checking and savings accounts are liquid resources. Medicaid Manual, Volume XIII, S1110.300, A, 1, (p. 8); S1110.305, B, 1, (p. 8).
7. The eligibility worker must verify the value of all countable, non-excluded resources. Medicaid Manual, Volume XIII, M0130.200, H (p. 8).
8. Assume that the person designated as owner in the account title owns all the funds in the account. In the case of joint accounts, assumed that all the funds in the account belong to the applicant(s) and/or deemor(s) in equal shares. Medicaid Manual, Volume XIII, M1140.200, A, 1 (p. 16); M1140.205, B, 2 (p. 19).
9. The countable value of a bank account is the lower of the balance before income is added, or the ending balance minus any income added during the month. Funds cannot be both income and a resource in the same month. Income that has been added to a bank account during the month must be subtracted from the ending balance to ensure that the income is not also counted as a resource. Medicaid Manual, Volume XIII, M1110.600, B, 3 (p. 18); M1140.200, B, 5 (p. 18).
10. An item is not subject to both income and resources counting rules in the same month. Items received during a month are evaluated under the income-counting rules. Items retained as of the first moment of the month following receipt are subject to evaluation under resource-counting rules. Medicaid Manual, Volume XIII, S1120.005, A, B, 1, 2 (p. 1).
11. A bona fide agreement is an agreement that is legally valid and is made in good faith. An informal loan is considered as bona fide if it includes:
 - borrower's acknowledgement of his obligation to repay;
 - schedule and plan for repayment; e.g., borrower plans to repay when he receives anticipated income in the future; and
 - borrower's express intent to repay by pledging either real or personal property or anticipated income.

Medicaid Manual, Volume XIII, M1120.220, A, 1, C (pp. 27-28).

12. Money represented in the agreement is not income, but may be a resource if retained. Medicaid Manual, Volume XIII, M1120.220, B, 1 (p. 27).
13. The current market value of an automobile is the average trade-in value listed in the NADA Guide. Ownership of one motor vehicle does not affect eligibility. One automobile, regardless of the value, is excluded for the individual or a member of the individual's household. Medicaid Manual, Volume XIII, M1130.200, A, 2, 3 (p. 17).
14. Any automobile an individual owns in addition to the one excluded will be evaluated as a countable resource. The exclusion will apply to the automobile with the highest equity value. Medicaid Manual, Volume XIII, M1130.200, A, 4, 5, B, 1 (pp. 17-18).
15. Assume that the individual owns the automobile if his name appears on the title or note or if he is listed as the owner in Division of Motor Vehicles' (DMV) records. The principle of "equitable ownership," however, applies to situations in which one individual's name appears on the records of ownership but another person actually paid for and uses the

automobile. If the applicant or enrollee wishes to rebut ownership of a vehicle, he must be given the opportunity to provide evidence that he does have equitable ownership in the vehicle. Rebuttal evidence consists of:

- a statement from the applicant/enrollee and the other individual indicating why the automobile is listed in the applicant's/enrollee's name, including the person who actually uses the automobile and in whose possession it is kept, and
- cancelled checks or records from the lender indicating that the other individual has made all payments on the automobile.

If the applicant/enrollee does not use the automobile and can provide documentation that another person has made all the payments on the automobile, it is not a resource to the applicant/enrollee. Medicaid Manual, Volume XIII, M1130.200, A, 6 (p. 17).

16. The value of any asset that meets the definition of a resource counts against the applicable resource limit, unless otherwise excluded. Medicaid Manual, Volume XIII, S1110.200 (p. 6).
17. The resource limit for two people in the Categorically Needy, Categorically Needy Non-Money Payment, and Medically Needy covered groups is \$3,000. Medicaid Manual, Volume XIII, M1110.003, B, 2, (p. 2).
18. An individual with countable resources in excess of the applicable limit is not eligible for Medicaid. Medicaid Manual, Volume XIII, M1110.003, B, 1 (p. 2).

AGENCY DECISION: The hearing officer remanded the case to the agency, based upon the following:

The Appellant applied for Medicaid, and claimed resources on the application. The agency made errors when completing the resource evaluation. Since the local agency did not follow correct procedures when determining the Appellant's resource eligibility, the hearing officer remanded the case for further evaluation.

United States Code

42 USC §1396a(a)(17)(B)

Code of Federal Regulations

42 CFR §435.601, (f)

Medicaid Manual, Volume XIII

M0130.200, H (p. 8)

M1110.001, A, B, 1 (p. 1)

M1110.003, B, 1, 2, (p. 2)

M1110.100, B, 1, (p. 3)

S1110.200 (p. 6)

S1110.300, A, 1 (p. 8)

S1110.305, B, 1, (p. 8)

M1110.600, B, 3 (p. 18)

M1120.005, A, B, 1, 2 (p. 1)

M1120.220, A, 1, B, 1, C (pp. 27-28)

M1130.200, A, 2, 3, 4, 5, 6, B, 1(pp. 17-18)

M1140.200, A, 1 (p. 16)

M1140.200, B, 5 (p. 18)

M1140.205, B, 2 (p. 19)